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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

M&S ADVISORY GROUP, INC.,	:	Case No. C-1-02-522
	:	
Plaintiff,	:	Judge Spiegel
	:	Magistrate Judge Hogan
vs.	:	
	:	<b><u>MOTION TO COMPEL AND MOTION</u></b>
EYEMART EXPRESS, LTD.,	:	<b><u>FOR SANCTIONS WITH</u></b>
	:	<b><u>SUPPORTING AFFIDAVIT</u></b>
Defendant.	:	
	:	
	:	
	:	

Defendant EyeMart Express, Ltd. (hereinafter "EyeMart"), pursuant to Rule 37 of the Federal Rules of Civil Procedure, moves this Court for an Order compelling Plaintiff M&S Advisory Group, Inc. to provide complete responses to Defendant EyeMart Express, Ltd.'s Second Request for Production of Documents Directed to Plaintiff M&S Advisory Group, Inc. and/or an Order of appropriate sanctions as provided under Rule 37 of the Federal Rules of Civil Procedure, and consistent with the inherent powers of this Court, including a jury instruction on spoliation of evidence and attorneys' fees for preparing this Motion. The facts supporting this Motion are more fully set forth in the attached Memorandum in Support and the attached Affidavit of Jon B. Allison, Esq.

Respectfully submitted,

/s/ Jon B. Allison  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 25, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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